IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 9TH MARCH 2007 / 18TH PHALGUNA 1928

Crl.MC.No. 643 of 2007()

CC.768/2002 of JUDL.MAGISTRATE OF FIRST CLASS COURT -I, ALAPPUZHA

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PETITIONER: ACCUSED 1 AND 2

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1. RADHAMANY AMMA, W/O.MURALEEDHARAN NAIR, THOPPIL VEEDU, WARD NO.5, MARARIKKULAM VADAKKU PANCHAYATH, (FRKM KAITHAVALAPPIL, AVALOOKKUNNU WARD, ALAPPUZHA).

2. SANALKUMAR, S/O.KUNJUKUNJU, SUJI NIVAS, WARD NO.8, VAYALAR PANCHAYATH, (FROM WARD NO.8, PALLIPPURAM PANCHAYATH, CHERTHALA TALUK).

BY ADV. SRI.A.S.SASIDHARAN

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REP. BY SUB INSPECTOR OF POLICE, ALAPPUZHA POLICE STATION, THROUGH THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY P.P. SRI.S.U. NAZAR.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 09/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 643 OF 2007

Dated this the 9th day of March, 2007

ORDER

The petitioners were found guilty of the allegations, inter alia, under Secs.471 and 420 read with Sec.34 of the IPC. The learned Magistrate had indulgently invoked the provisions of the Probation of Offenders Act. Inter alia, there was a direction to execute a bond to keep good behaviour and to be under the supervision of the District Probation Officer for a period of two years. There was a further direction under Sec.5 of the Probation of Offenders Act that the petitioners must pay an amount of Rs.30,000/- and Rs.35,000/- respectively as compensation to the UCO Bank, Alappuzha Branch before the date of expiry of the period of probation. Such period expired on 7/3/07. The amounts have not been paid. The learned Magistrate had directed that if there is default in payment, the accused shall be liable to undergo the sentence on the expiry of the period of two years.

2. As stated earlier, the amounts have not been paid.

The period has expired. The petitioners are now bound to suffer the sentence imposed. The petitioners have, in these circumstances, rushed to this Court with a prayer that a short further extension of time may be granted to them to make the payment, as directed. They submit that they were not precisely made aware of this condition and it is only after the lapse of the period when the bank took steps that they came to know of this condition imposed on them. The reason urged does not at all appeal to me to be reasonable, satisfactory or sufficient. However, I am satisfied, in the peculiar facts and circumstances of this case, that the petitioners can be granted breathing time to avoid the consequence of undergoing incarceration on condition that they pay the amounts within a further period of one month along with interest at the rate of 8% per annum from 7/3/07. The petitioners shall appear before the learned Magistrate on 7/4/07 and if they do not so appear, the learned Magistrate shall proceed to execute the order passed by the learned Magistrate.

Sd/-
(R. BASANT, JUDGE)

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//true copy// P.S. To Judge